

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated August 29, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-9 and 21-31 are pending in the Application. Claims 10-20 are canceled herein, without prejudice. The Applicants respectfully reserve the right to reintroduce subject matter deleted herein, either at a later time during the prosecution of this application or any continuing applications. Claims 21-31 are added by this amendment.

In the Office Action, claims 1-9 are rejected under 35 U.S.C. §112, first paragraph, for allegedly failing to comply with the written description requirement. Further, claims 1-9 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Each of these rejections is respectfully traversed. It is respectfully submitted that claims 1-9 fully comply with the written description requirement and are definite. However, the Applicants have elected to amend the claims to advance prosecution and expedite consideration and allowance of the present application and for better clarity. Accordingly, withdrawal of these

rejections to claims 1-9 under 35 U.S.C. §112, first paragraph and under 35 U.S.C. §112, second paragraph, is respectfully requested.

In the Office Action, claims 1-9 are rejected are rejected under 35 U.S.C. §102(b) as allegedly anticipated by or in the alternative under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent No. 6,360,615 to Smela ("Smela"). Claims 1-3 and 5-9 are rejected are rejected under 35 U.S.C. §102(b) as allegedly anticipated by or in the alternative under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent Publication No. 2002/0075232 to Daum ("Daum"). Claims 1-3, 5, 8 and 9 are rejected are rejected under 35 U.S.C. §102(b) as allegedly anticipated by or in the alternative under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent Publication No. 2001/0017759 to Marmaropoulos ("Marmaropoulos"). Claims 3, 4, 6 and 7 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Marmaropoulos in view of Wong in further view of Smela. These rejections are respectfully traversed. It is respectfully submitted that claims 1-9 and 20-31 are allowable over Smela, Daum and Marmaropoulos alone and in any combination for at least the following reasons.

Smela shows a position/movement sensitive effect-emitting strain gauge that utilizes an elastically conductive fabric that changes properties as it is stretched and relaxed (see, Smela, Col. 4, lines 18-34). In an embodiment shown in FIG. 5 and described in Col. 11, line 62 through col. 12, line 6, Smela describes that conventional fabric or plastic may be attached to the elastically conductive material for improved structural and mechanical properties. Smela is clear that these areas are "regions of the wearable device that do not generate a signal. Smela further states that additional structural components may be utilized as a housing. No where within the four corners of Smela is it disclosed or suggested that an actuator is cooperative with said conductive elastomeric material.

Daum shows a data glove formed of flexible textile material, a portion of which has inner and outer layers with a layer of sensors situated between the inner and outer textile layers (see, FIG. 1 and paragraphs [0009] and [0033]). As is clear from a review of Daum, no where within the four corners of Daum is it disclosed or suggested that an actuator is cooperative with said conductive elastomeric material.

Marmaropoulos shows a garment having cords 22, 24 that are formed of a stretchable material having electrical resistance that varies with applied tension (see, FIGs. 1 and 4 and paragraph [0016]). The cords 22, 24 are connected mechanically to opposite ends of an insulating grip or bead 48. Marmaropoulos does not disclose or suggest an actuator and does not disclose or suggest the actuator is formed from one or more of a plastic or rubber.

It is respectfully submitted that the textile construction of claim 1 is not anticipated or made obvious by the teachings of Smela, Daum and Marmaropoulos. For example, Smela, Daum and Marmaropoulos does not disclose or suggest, a textile construction that amongst other patentable elements, comprises (illustrative emphasis added) "a conductive elastomeric material suitable for converting an interaction therewith into a signal; and an actuator cooperative with said conductive elastomeric material to provide a user interface, wherein said actuator is separate from said conductive elastomeric material and is configured for user interaction to produce said signal and wherein said actuator is formed from one or more of a plastic and rubber" as recited in claim 1.

Patent
Serial No. 10/560,707
Amendment in Reply to Office Action of August 29, 2008

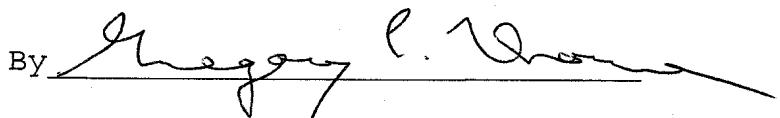
Based on the foregoing, the Applicants respectfully submit that independent claim 1 is patentable over Smela, Daum and Marmaropoulos alone and in any combination and notice to this effect is earnestly solicited. Claims 2-9 and 21-31 respectively depend from claim 1 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Patent
Serial No. 10/560,707
Amendment in Reply to Office Action of August 29, 2008

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
November 26, 2008

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101